

# Title 38: WATERS AND NAVIGATION

## Chapter 14-A: NUCLEAR WASTE ACTIVITY

### Table of Contents

<b>Subchapter 1. GENERAL PROVISIONS.....</b>	<b>3</b>
Section 1451. DEFINITIONS.....	3
Section 1452. CONSENT OF LEGISLATURE FOR FEDERAL RADIOACTIVE WASTE STORAGE FACILITIES.....	7
Section 1453. ADVISORY COMMISSION ON RADIOACTIVE WASTE (REPEALED).....	7
Section 1453-A. ADVISORY COMMISSION ON RADIOACTIVE WASTE AND DECOMMISSIONING (REPEALED).....	7
Section 1454. RADIOACTIVE WASTE EVALUATION FUND (REPEALED).....	7
Section 1454-A. RADIOACTIVE WASTE ADVISORY COMMISSION FUND (REPEALED).....	8
Section 1455. NUCLEAR FACILITY DECOMMISSIONING CLEANUP.....	8
<b>Subchapter 2. HIGH-LEVEL RADIOACTIVE WASTE.....</b>	<b>9</b>
Section 1461. INTENT (REPEALED).....	9
Section 1461-A. DISAPPROVAL OF HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY.....	9
Section 1462. LIMITATION (REPEALED).....	10
Section 1463. AREA STUDIES.....	10
Section 1464. SITE CHARACTERIZATION AND SELECTION.....	11
Section 1465. NOTICE OF DISAPPROVAL (REPEALED).....	12
Section 1466. OTHER FACILITIES.....	12
<b>Subchapter 3. LOW-LEVEL RADIOACTIVE WASTE.....</b>	<b>12</b>
Section 1471. PURPOSE.....	12
Section 1472. REPORTING.....	13
Section 1473. GEOLOGICAL CHARACTERIZATION.....	13
Section 1474. REGIONAL COMPACTS.....	13
Section 1476. LOW-LEVEL WASTE SITING COMMISSION (REPEALED).....	13
Section 1477. LOW-LEVEL WASTE SITING FUND (REPEALED).....	14
Section 1478. DEPARTMENTAL REVIEW OF LOW-LEVEL RADIOACTIVE WASTE FACILITIES (REPEALED).....	14
Section 1478-A. HEARINGS; ORDERS; CONSTRUCTION SUSPENDED (REPEALED).....	14
Section 1479. LEGISLATIVE APPROVAL OF FACILITIES REQUIRED.....	14
Section 1480. APPLICABILITY OF REGULATIONS (REPEALED).....	14
Section 1480-A. JOINT HEARINGS; INTERVENTION.....	15
<b>Subchapter 3-A. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL .....</b>	<b>15</b>

Section 1481. STATE LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY (REPEALED).....	15
Section 1482. REQUIREMENTS TO BE MET BY ANY LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY.....	15
Section 1483. REGULATION OF DISPOSAL OR STORAGE OF LOW-LEVEL RADIOACTIVE WASTE CLASSIFIED BY THE NUCLEAR REGULATORY COMMISSION AS BELOW REGULATORY CONCERN.....	16
<b>Subchapter 4. WASTE DISPOSAL.....</b>	<b>16</b>
Section 1491. TITLE.....	16
Section 1492. PURPOSE.....	16
Section 1493. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL REFERENDUM.....	16
Section 1494. LOW-LEVEL RADIOACTIVE WASTE COMPACT REFERENDUM.....	17
Section 1495. LIMITING PROVISIONS.....	17
Section 1496. NULLIFYING PREVIOUS COMPACTS OR AGREEMENTS.....	18
Section 1497. APPLICABILITY OF REGULATIONS.....	18

**Maine Revised Statutes**  
**Title 38: WATERS AND NAVIGATION**  
**Chapter 14-A: NUCLEAR WASTE ACTIVITY**

**Subchapter 1: GENERAL PROVISIONS**

**§1451. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 381, §9 (NEW).]

**1. Area studies, for high-level radioactive waste.** "Area studies," for high-level radioactive waste, means the study of areas with potentially acceptable sites using available geophysical, geologic, geochemical, hydrologic and other information; and additional geological reconnaissance and field work, including geophysical testing, preliminary borings and excavation as necessary to assess whether site characterization should be undertaken for any sites within the area. Area studies also include socioeconomic and environmental studies and preparation of any environmental assessment relating to the suitability of the site for nomination for site characterization.

[ 1983, c. 381, §9 (NEW) .]

**2. By-product material.** "By-product material" means:

- A. Any radioactive material except special nuclear material yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing nuclear material; and [1983, c. 381, §9 (NEW).]
- B. The tailings or waste produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content. [1983, c. 381, §9 (NEW).]

[ 1983, c. 381, §9 (NEW) .]

**3. Closure or site closure.** "Closure" or "site closure" means all activities performed at a waste disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance and monitoring are necessary at the site, following termination of licensed operation.

[ 1983, c. 381, §9 (NEW) .]

**3-A. Commission.**

[ 2011, c. 691, Pt. C, §7 (RP) .]

**4. Decommissioning a nuclear power plant.** "Decommissioning a nuclear power plant" means the series of activities undertaken, beginning at the time of closing of a nuclear power plant, to ensure that the final disposition of the site or any radioactive components or material, but not including spent fuel, associated with the plant is accomplished safely in compliance with all applicable state and federal laws. Decommissioning includes activities undertaken to prepare a nuclear power plant for final disposition, to monitor and maintain it after closing and to effect final disposition of any radioactive components of the nuclear power plant.

[ 1983, c. 381, §9 (NEW) .]

**5. Environmental impact statement.** "Environmental impact statement" means any document prepared pursuant to or in compliance with the requirements of the United States National Environmental Policy Act of 1969, Section 102(2)(c), 83 Stat. 852, 1981.

[ 1983, c. 381, §9 (NEW) .]

**6. High-level radioactive waste.** "High-level radioactive waste" means the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from that liquid waste that contains fission products in sufficient concentrations; and other highly radioactive material that the United States Nuclear Regulatory Commission, consistent with existing law, determines by rule to require permanent isolation.

[ 1983, c. 381, §9 (NEW) .]

**7. High-level radioactive waste disposal.** "High-level radioactive waste disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel or other highly radioactive material with no foreseeable intent of recovery, whether or not that emplacement permits the recovery of that waste.

[ 1983, c. 381, §9 (NEW) .]

**8. High-level radioactive waste repository or repository.** "High-level radioactive waste repository" or "repository" means any system licensed by the United States Nuclear Regulatory Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not the system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in the system. This term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

[ 1983, c. 381, §9 (NEW) .]

**9. High-level radioactive waste storage.** "High-level radioactive waste storage" means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover that waste or fuel for subsequent use, processing or disposal.

[ 1983, c. 381, §9 (NEW) .]

**10. License.** "License" means a federal or state license, issued to a named person upon application to use, manufacture, produce, transfer, receive, acquire or possess quantities of, or devices or equipment utilizing, radioactive material.

[ 1983, c. 381, §9 (NEW) .]

**11. Low-level radioactive waste.** "Low-level radioactive waste" means radioactive material that is not high-level radioactive waste, spent nuclear fuel, transuranic waste or by-product material, as defined in the United States Code, Title 42, Section 2014(e)(2), the Atomic Energy Act of 1954, Section 11(e)(2); and that the United States Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste. Low-level radioactive waste also includes any radioactive material that is generated through the production of nuclear power and that the United States Nuclear Regulatory Commission classified as low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory concern after that date.

A. "Low-level radioactive waste" does not include radioactive material remaining at the site of a decommissioned nuclear power plant if the following enhanced state standards are met, as determined by the department:

- (1) The site has been determined by the United States Nuclear Regulatory Commission to meet the criteria for release under 10 Code of Federal Regulations, Part 20 pursuant to a license termination plan approved by that commission;
- (2) The site is not used for the disposal of radioactive material generated by a facility other than the nuclear power plant;
- (3) The residual radioactivity distinguishable from background radiation results in a total effective dose equivalent to an average member of the critical group of not more than 10 millirems, or 0.10 millisievert, per year, including that from groundwater sources of drinking water;
- (4) The residual radioactivity distinguishable from background radiation in groundwater sources of drinking water results in a total effective dose equivalent of not more than 4 millirems, or 0.04 millisievert, per year to the average member of the critical group; and
- (5) Any construction demolition debris, including concrete, disposed of at the site qualifies for unrestricted use within the limits specified in Table 1 in the 1974 United States Atomic Energy Commission Regulatory Guide 1.86. Below-grade, intact structures, including, but not limited to, slabs, walls and foundations, are not considered construction demolition debris for purposes of this subparagraph but are subject to the provisions of subparagraphs (1) to (4).

A nuclear facility owner shall demonstrate compliance with subparagraphs (1) to (4) using actual measurements and the analytic methodology approved by the United States Nuclear Regulatory Commission and supplemented by modeling the effects of engineering controls that have been designed to reduce exposure.

In order to determine compliance with subparagraphs (1) to (4), the department may require appropriate testing and analysis, including, but not limited to, analysis of the effectiveness and integrity of engineering controls. [1999, c. 741, §1 (NEW).]

B. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Average member of the critical group" means a member of the critical group who is subjected to the most likely exposure situation based on prudently conservative exposure assumptions and parameter values within the model calculations.
- (2) "Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.
- (3) "Nuclear facility owner" means the owner of a nuclear power plant or decommissioned nuclear power plant in the State.
- (4) "Total effective dose equivalent" has the same meaning as in 10 Code of Federal Regulations, Section 20.1003, as in effect on January 1, 2000. [1999, c. 741, §1 (NEW).]

[ 1999, c. 741, §1 (AMD) . ]

**12. Low-level radioactive waste disposal facility.** "Low-level radioactive waste disposal facility" means a facility for the isolation of low-level radioactive waste from the biosphere inhabited by people and their food chains.

[ 1983, c. 381, §9 (NEW) . ]

**13. Low-level radioactive waste generator.** "Low-level radioactive waste generator" means a person who produces or processes low-level radioactive waste, whether or not that waste is shipped off site.

[ 1983, c. 381, §9 (NEW) . ]

**14. Low-level radioactive waste licensee or low-level waste licensee.** "Low-level radioactive waste licensee" or "low-level waste licensee" means any person licensed by the State or Federal Government to generate, treat, store or dispose of low-level radioactive waste.

[ 1983, c. 381, §9 (NEW) .]

**15. Low-level radioactive waste storage facility.** "Low-level radioactive waste storage facility" means any facility for storage of low-level radioactive waste, except for temporary on-site storage prior to disposal.

[ 1983, c. 381, §9 (NEW) .]

**16. Radioactive material.** "Radioactive material" means any material which emits ionizing radiation spontaneously. It includes accelerator-produced, by-product, naturally occurring, source and special nuclear materials.

[ 1983, c. 381, §9 (NEW) .]

**17. Site characterization, for high-level radioactive waste.** "Site characterization," for high-level radioactive waste, means:

A. Siting research facilities with respect to a test and evaluation facility at a candidate site; and [ 1983, c. 381, §9 (NEW) .]

B. Activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken. [1989, c. 502, Pt. B, §52 (AMD) .]

[ 1989, c. 502, Pt. B, §52 (AMD) .]

**18. Source material.** "Source material" means:

A. Uranium or thorium, or any combination thereof, in any physical or chemical form; or [ 1983, c. 381, §9 (NEW) .]

B. Ores which contain by weight 1/20th of 1%, 0.05% or more of uranium, thorium or any combination thereof. Source material does not include special nuclear material. [1983, c. 381, §9 (NEW) .]

[ 1983, c. 381, §9 (NEW) .]

**19. Source material mill tailings.** "Source material mill tailings" means the tailings or waste produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface waste resulting from underground solution extraction processes, but not including underground ore bodies depleted by those solution extraction processes.

[ 1983, c. 381, §9 (NEW) .]

**20. Special nuclear material.** "Special nuclear material" means:

A. Plutonium, uranium 233 and uranium enriched in the isotope 233 or in the isotope 235, but does not include source material; or [1983, c. 381, §9 (NEW) .]

B. Any material artificially enriched by any of the material listed in paragraph A, but does not include source material. [1983, c. 381, §9 (NEW) .]

[ 1983, c. 381, §9 (NEW) .]

**21. Spent nuclear fuel.** "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

[ 1983, c. 381, §9 (NEW) .]

**22. Transuranic waste.** "Transuranic waste" means radioactive waste containing alpha-emitting transuranic elements with radioactive half-lives greater than 5 years, in excess of 10 nanocuries per gram.

[ 1983, c. 381, §9 (NEW) .]

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 309, §5 (AMD). 1985, c. 737, §A114 (AMD). 1989, c. 461, §1 (AMD). 1989, c. 502, §B52 (AMD). 1993, c. 664, §13 (AMD). 1999, c. 741, §1 (AMD). 2011, c. 691, Pt. C, §7 (AMD).

### **§1452. CONSENT OF LEGISLATURE FOR FEDERAL RADIOACTIVE WASTE STORAGE FACILITIES**

Notwithstanding any other provision of law, this State does not consent to the acquisition by the Federal Government, by purchase, condemnation, lease, easement or by any other means, of any land, building or other structure, above or below ground, or in or under the waters of the State for use in storing, depositing or treating high-level or low-level radioactive waste materials. The Legislature may consent, by prior affirmative vote, to such activities, except that consent is expressly withheld for any such activity undertaken in connection with the deep geological disposal of high-level radioactive waste, as provided in section 1461-A. [1985, c. 802, §5 (AMD).]

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 802, §5 (AMD).

### **§1453. ADVISORY COMMISSION ON RADIOACTIVE WASTE (REPEALED)**

#### SECTION HISTORY

1985, c. 309, §6 (NEW). 1985, c. 501, §B22 (AMD). 1985, c. 522, §1 (AMD). 1985, c. 525, (AMD). 1985, c. 737, §A115 (AMD). 1993, c. 92, §17 (AMD). 1993, c. 664, §14 (RP).

### **§1453-A. ADVISORY COMMISSION ON RADIOACTIVE WASTE AND DECOMMISSIONING (REPEALED)**

#### SECTION HISTORY

1993, c. 664, §15 (NEW). 1993, c. 664, §21 (AFF). 1995, c. 333, §§3,4 (AMD). 1995, c. 488, §5 (AMD). 1995, c. 642, §§13,14 (AMD). 1997, c. 700, §§2-8 (AMD). 1999, c. 366, §2 (AMD). 1999, c. 585, §§2,3 (AMD). 2003, c. 689, §§B6,7 (REV). MRS A T. 38, §1453-A, sub-7 (RP).

### **§1454. RADIOACTIVE WASTE EVALUATION FUND (REPEALED)**

#### SECTION HISTORY

1985, c. 309, §6 (NEW). 1985, c. 522, §§2,3 (AMD). 1987, c. 530, §3 (RPR). 1989, c. 890, §§A40,B270 (AMD). 1993, c. 664, §16 (RP).

## §1454-A. RADIOACTIVE WASTE ADVISORY COMMISSION FUND (REPEALED)

### SECTION HISTORY

1993, c. 664, §17 (NEW). 1995, c. 333, §5 (AMD). 1995, c. 502, §E32 (AMD). 1999, c. 556, §39 (AMD). 2003, c. 689, §§B6,7 (REV). 2007, c. 619, §8 (RP).

## §1455. NUCLEAR FACILITY DECOMMISSIONING CLEANUP

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Average member of the critical group" means a member of the critical group who is subjected to the most likely exposure situation based on prudently conservative exposure assumptions and parameter values within the model calculations. [1999, c. 739, §3 (NEW).]

B. "Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances. [1999, c. 739, §3 (NEW).]

C. "Nuclear facility owner" means the owner of a nuclear power plant or decommissioned nuclear power plant in the State. [1999, c. 739, §3 (NEW).]

D. "Total effective dose equivalent" has the same meaning as in 10 Code of Federal Regulations, Section 20.1003, as in effect on January 1, 2000. [1999, c. 739, §3 (NEW).]

[ 1999, c. 739, §3 (NEW) .]

**2. Radiation dose standard.** The site at which the decommissioning of a nuclear power plant has been completed must meet the following standards, as determined by the department:

A. The residual radioactivity distinguishable from background radiation results in a total effective dose equivalent to an average member of the critical group of not more than 10 millirems, or 0.10 millisievert, per year, including that from groundwater sources of drinking water; and [1999, c. 739, §3 (NEW) .]

B. The residual radioactivity distinguishable from background radiation in groundwater sources of drinking water results in a total effective dose equivalent of not more than 4 millirems, or 0.04 millisievert, per year to the average member of the critical group. [1999, c. 739, §3 (NEW) .]

A nuclear facility owner shall demonstrate compliance with this subsection using actual measurements and the analytic methodology approved by the United States Nuclear Regulatory Commission and supplemented by modeling the effects of engineering controls that have been designed to reduce exposure.

In order to determine compliance with this subsection, the department may require appropriate testing and analysis, including, but not limited to, analysis of the effectiveness and integrity of engineering controls.

[ 1999, c. 739, §3 (NEW) .]

**3. Cumulative risk assessment.** The department shall evaluate the cumulative risk posed by radiological and chemical contaminants that will remain at the site at which the decommissioning of a nuclear power plant is occurring or has been completed. In undertaking its evaluation, the department shall consider any proposed institutional and engineering controls.

[ 1999, c. 739, §3 (NEW) .]



**4. Compliance with applicable law; assessment of compliance.** A nuclear facility owner must obtain and be in compliance with all licenses, permits and approvals required under this Title, including, but not limited to, those required under chapter 3, article 6 and chapter 13 for the site at which the decommissioning of a nuclear power plant is occurring or has been completed. In addition to its existing authority to require monitoring wells and other measures for nonradiological environmental issues under chapters 3, 13, 13-B and other applicable laws, the department may require radiological monitoring, use of monitoring wells, use of liners, soil sampling and other measures at the site to allow the department to assess and ensure compliance with applicable requirements of this Title, including, but not limited to, subsection 2, and the terms of any licenses and permits issued pursuant to this Title with respect to the site.

[ 1999, c. 739, §3 (NEW) . ]

**5. Provision of information.** As part of any permit application by a nuclear facility owner or site investigation by the department pursuant to this Title, the nuclear facility owner shall provide to the department information necessary for the department to establish compliance with the provisions of this section or other applicable laws.

[ 1999, c. 739, §3 (NEW) . ]

#### SECTION HISTORY

1999, c. 739, §3 (NEW) .

## Subchapter 2: HIGH-LEVEL RADIOACTIVE WASTE

### §1461. INTENT

*(REPEALED)*

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 802, §6 (RP).

### §1461-A. DISAPPROVAL OF HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY

**1. Disapproval.** The State has received notice that the United States Department of Energy, in accordance with the United States Nuclear Waste Policy Act of 1982, Public Law 97-425, is considering 2 sites within the State of Maine as potentially acceptable sites for location of a high-level radioactive waste repository and has considered at least 3 other sites within Maine for this purpose. The Legislature finds:

A. That, based on all available technical information, the geology at these sites is not suitable for a high-level radioactive waste repository; [1985, c. 802, §7 (NEW) . ]

B. That exploration for, construction or operation of such a repository at these sites is contrary to the economic well-being of the people of this State; and [1985, c. 802, §7 (NEW) . ]

C. That the location of such a repository at these sites is contrary to the safety and health of the people of the State of Maine and would substantially interfere with the power and ability of the State to govern its citizens and provide for their health, safety and welfare. [1985, c. 802, §7 (NEW) . ]

For each of these reasons, the State of Maine expressly disapproves the further exploration for, construction or operation of a high-level radioactive waste repository at any of these sites.

[ 1985, c. 802, §7 (NEW) . ]

**2. Review by State.** If the Federal Government, or any person acting under its direction, in spite of the State's disapproval as provided in subsection 1, proceeds with further efforts to investigate the siting, construction or operation of a high-level radioactive waste repository within the State of Maine, the

provisions of sections 1463 to 1466 apply to the extent necessary to allow the State to monitor, review and regulate such activities in order to minimize the adverse effects on the health, safety and economic well-being of the people of this State arising from these activities.

[ 1985, c. 802, §7 (NEW) .]

#### SECTION HISTORY

1985, c. 802, §7 (NEW).

### §1462. LIMITATION

*(REPEALED)*

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 802, §8 (RP).

### §1463. AREA STUDIES

**1. Plan.** Prior to initiation of area studies by the Federal Government or any person acting under its authority, the commissioner, in consultation with the State Geologist, shall submit a plan for these studies to the Legislature for approval, including any federal plan for conduct of those studies and a plan for state oversight, review and verification of area studies. The State plan shall include procedures for the establishment of a state review group to monitor and review the conduct of area studies and report their findings to the Governor and the Legislature. This review group shall include representatives of the scientific community, the Legislature and the general public. The review group may be established and may conduct its activities before other elements of the plan are approved.

[ 1985, c. 802, §9 (AMD) .]

**2. Exploration.** No person may explore geological formations within this State for the purpose of investigating whether the site may be suitable for a high-level radioactive waste repository without the permission of the Legislature. The State Geologist shall advise the Legislature whether the proposed activity is consistent with the plan required by subsection 1 and with rules promulgated by the United States Department of Energy, the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency relevant to siting a high-level radioactive waste repository and the United States Nuclear Waste Policy Act of 1982, Public Law 97-425.

[ 1985, c. 802, §9 (AMD) .]

**3. Public hearings.** No plan for area studies may be approved unless it contains provision for public hearings in the State within 12 months after commencement of the studies to receive comments on:

- A. The technical feasibility of the proposed waste management technology; [1983, c. 381, §9 (NEW) .]
- B. The environmental impact of a waste repository in the area of study; [1983, c. 381, §9 (NEW) .]
- C. The social impact of a waste repository in the area of study; [1983, c. 381, §9 (NEW) .]
- D. The economic impact of a waste repository in the area of study; [1983, c. 381, §9 (NEW) .]

E. Whether the proposed facility will be subject to section 413, waste discharge licenses; section 483, site location of development; section 590, air emission licensing; section 1304, licenses for waste facilities; and any other laws administered by the department or the Maine Land Use Planning Commission that may be applicable; [1985, c. 802, §9 (AMD); 2011, c. 682, §38 (REV).]

F. Conformance of the plan with the federal guidelines cited in subsection 2; [1985, c. 802, §9 (AMD).]

G. A reasonable comparative evaluation of the suitability of sites in the study area compared with sites in other areas; and [1985, c. 802, §9 (AMD).]

H. Such other matters as the commissioner deems appropriate. [1985, c. 802, §9 (NEW).]

[ 1985, c. 802, §9 (AMD); 2011, c. 682, §38 (REV) .]

**4. Approval of plan required.** Except for oversight monitoring and public information activities, no agent of the State may participate in area studies unless the Legislature has approved a plan for these studies. No person may conduct borings or excavations relating to area studies, unless the Legislature has approved a plan for the studies, including those borings or excavations.

[ 1985, c. 802, §9 (AMD) .]

**5. Reports.** The commissioner shall keep the Governor and the Legislature fully and currently informed about the conduct of any area studies and, within 90 days of completion of those studies, shall review the findings and report them, together with the commissioner's comments to the Governor and the Legislature.

[ 1985, c. 802, §9 (AMD) .]

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 802, §9 (AMD). 2011, c. 682, §38 (REV).

## §1464. SITE CHARACTERIZATION AND SELECTION

**1. Limitation.** Except for oversight, monitoring and public information activities, no agent of the State may participate in site characterization or selection studies, until the Legislature finds that all of the matters in section 1463, subsection 3, have been adequately addressed and has approved a plan for the studies and the Federal Government agrees that the site characterization or selection process includes:

A. Compliance with the United States National Environmental Policy Act of 1969, Public Law 91-190, including preparation of a specific environmental impact statement; and [1983, c. 381, §9 (NEW).]

B. Compliance with all applicable state and local laws. [1983, c. 381, §9 (NEW).]

[ 1985, c. 802, §9 (AMD) .]

### 2. Legislative findings.

[ 1985, c. 802, §9 (RP) .]

**2-A. Limitations on excavation activities.** No person may excavate any exploratory shaft for site characterization, selection or construction, unless the Legislature has approved that activity.

[ 1985, c. 802, §9 (NEW) .]

**3. Reports.** The commissioner shall keep the Governor and the Legislature fully and currently informed about the conduct of any site characterization and, within 90 days of completion of that effort, shall review the findings and report them, together with the commissioner's comments to the Governor and the Legislature.

[ 1985, c. 802, §9 (AMD) .]

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 802, §9 (AMD).

### §1465. NOTICE OF DISAPPROVAL

*(REPEALED)*

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 802, §10 (RP).

### §1466. OTHER FACILITIES

Except for on-site storage of spent fuel from a nuclear power plant, any facility for storage or processing of high-level radioactive waste which is not a repository covered by section 1461, subsection 1, is subject to the requirements in this section. Except for storage in existing licensed capacity, on-site storage of spent fuel from a nuclear power plant shall be subject to subsections 1 and 2. [1985, c. 802, §11 (AMD) .]

**1. Notification.** Any person planning to construct a facility covered by this section shall notify the commissioner. The board shall, by rule, specify the form, content and timing of that notice.

[ 1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §271 (AMD) .]

**2. Commissioner review.** Upon receipt of notice under subsection 1, the commissioner shall review the proposed facility as closely as possible in accordance with section 1463 and report its findings and recommendations within 90 days to the Governor and the Legislature.

[ 1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §271 (AMD) .]

**3. Legislative approval of facilities required.** No high-level radioactive waste disposal or storage facility covered by this section may be constructed or operated in the State, unless the Legislature has expressly approved the construction or operation of that facility. This approval does not replace any other license or permit that may be required by law or rule.

[ 1983, c. 381, §9 (NEW) .]

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 802, §11 (AMD). 1989, c. 890, §§A40,B271 (AMD).

## Subchapter 3: LOW-LEVEL RADIOACTIVE WASTE

### §1471. PURPOSE

In accordance with the United States Low-level Radioactive Waste Policy Act of 1980, Public Law 96-573, as amended by the United States Low-level Radioactive Waste Policy Amendments Act of 1985, Public Law 99-240, the State accepts its responsibility for providing for the capacity for the disposal of low-level radioactive waste generated within this State that consists of or contains Class A, B or C radioactive waste, as defined by the Code of Federal Regulations, Title 10, Section 61.55, as in effect on January 26, 1983, except for waste owned or generated by the United States Department of Energy or waste owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy

or waste owned or generated as a result of any research, development, testing or production of any atomic weapon. It is the purpose of this subchapter to establish a program for the safe management of low-level radioactive waste, and to provide capacity for its disposal either within this State or in regional facilities. [1985, c. 705, §1 (AMD).]

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 705, §1 (AMD).

### §1472. REPORTING

Each low-level radioactive waste generator shall annually report, by March 31st, the volume, radioactivity and other physical and chemical characteristics of low-level waste generated and of low-level waste shipped to commercial disposal facilities, and the volume, radioactivity and other pertinent characteristics of low-level radioactive waste stored on-site. This report shall be submitted to the commissioner and to the Commissioner of Health and Human Services, and shall include information on the specific radioactive materials handled. [1985, c. 705, §2 (AMD); 2003, c. 689, Pt. B, §7 (REV).]

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1985, c. 705, §2 (AMD). 2003, c. 689, §B7 (REV).

### §1473. GEOLOGICAL CHARACTERIZATION

The State Geologist shall advise the Governor and the Legislature on the suitability of areas of the State for low-level waste disposal. In determining suitability, the State Geologist shall consider final rules for facility siting under 10 Code of Federal Regulations, Part 61, and other rules, as appropriate. [1983, c. 381, §9 (NEW).]

#### SECTION HISTORY

1983, c. 381, §9 (NEW).

### §1474. REGIONAL COMPACTS

**1. Negotiation.** The Governor may negotiate on behalf of the State compacts or other agreements, with other states and the Federal Government with respect to the siting, licensing, operation and use of low-level radioactive waste disposal facilities.

[ 1985, c. 705, §3 (NEW) .]

**2. Ratification.** Except for an agreement with the Southeast Compact Commission for acceptance through June 30, 1994 of low-level radioactive waste generated by and on the premises of any facility of the United States Navy in Kittery, Maine, any compact or agreement with any other state or states or the Federal Government for low-level waste disposal must be ratified by legislative act and, in accordance with subchapter IV, by the voters of the State.

[ 1993, c. 541, §1 (AMD) .]

#### SECTION HISTORY

1983, c. 381, §9 (NEW). 1983, c. 500, §1 (RAL). 1983, c. 862, §91 (RPR). 1985, c. 705, §3 (RPR). 1993, c. 541, §1 (AMD).

### §1476. LOW-LEVEL WASTE SITING COMMISSION

*(REPEALED)*

## SECTION HISTORY

1981, c. 439, §9 (NEW). 1983, c. 88, §2 (AMD). 1983, c. 381, §5 (RAL).  
1983, c. 812, §§296,297 (AMD). 1985, c. 309, §7 (RP).

**§1477. LOW-LEVEL WASTE SITING FUND***(REPEALED)*

## SECTION HISTORY

1981, c. 439, §9 (NEW). 1983, c. 88, §§3,4 (AMD). 1983, c. 381, §6  
(RAL). 1985, c. 309, §8 (RP).

**§1478. DEPARTMENTAL REVIEW OF LOW-LEVEL RADIOACTIVE WASTE FACILITIES***(REPEALED)*

## SECTION HISTORY

1983, c. 500, §5 (NEW). 1987, c. 233, (AMD). 1987, c. 787, §20 (AMD).  
1989, c. 890, §§A40,B272, 273 (AMD). 1993, c. 383, §§39,40 (AMD). 1995,  
c. 642, §15 (RP).

**§1478-A. HEARINGS; ORDERS; CONSTRUCTION SUSPENDED***(REPEALED)*

## SECTION HISTORY

1993, c. 383, §41 (NEW). 1995, c. 642, §16 (RP).

**§1479. LEGISLATIVE APPROVAL OF FACILITIES REQUIRED**

A low-level radioactive waste disposal or storage facility may not be established in the State, unless the Legislature has, by Private and Special Act, approved the establishment of that facility. The Legislature shall act expeditiously after a decision by the United States Nuclear Regulatory Commission to approve a facility, but may not act until after the conclusion of any judicial review of the decision and any resulting administrative proceedings. [1995, c. 642, §17 (AMD).]

Approval under this section does not replace any other license required by law and is in addition to the voter approval required by section 1493. [1995, c. 642, §17 (AMD).]

## SECTION HISTORY

1983, c. 500, §5 (NEW). 1983, c. 583, §25 (AMD). 1985, c. 705, §4  
(AMD). 1995, c. 642, §17 (AMD).

**§1480. APPLICABILITY OF REGULATIONS***(REPEALED)*

## SECTION HISTORY

1983, c. 500, §5 (NEW). 1995, c. 642, §18 (RP).

## §1480-A. JOINT HEARINGS; INTERVENTION

The Department of Health and Human Services or the Governor's Energy Office may intervene in any federal licensing proceeding to carry out the purpose of this chapter. [2011, c. 655, Pt. MM, §23 (AMD); 2011, c. 655, Pt. MM, §26 (AFF).]

### SECTION HISTORY

1983, c. 500, §5 (NEW). 1995, c. 642, §19 (AMD). 2003, c. 689, §B6 (REV). 2011, c. 655, Pt. MM, §23 (AMD). 2011, c. 655, Pt. MM, §26 (AFF).

## Subchapter 3-A: LOW-LEVEL RADIOACTIVE WASTE DISPOSAL HEADING: PL 1987, C. 402, PT. A, §206 (NEW)

## §1481. STATE LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY (REPEALED)

### SECTION HISTORY

1985, c. 705, §5 (NEW). 1993, c. 664, §18 (RP).

## §1482. REQUIREMENTS TO BE MET BY ANY LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY

**1. State ownership and control.** Any low-level radioactive waste disposal facility developed in the State shall be owned and controlled by the State, but the State may contract for services as necessary.

[ 1985, c. 705, §5 (NEW) .]

**1-A. State ownership; exception.** Notwithstanding subsection 1, if a low-level radioactive waste disposal facility is developed at the site of a decommissioned nuclear power plant in the course of or as a result of the decommissioning process, the State is not required to own the facility.

[ 1999, c. 739, §4 (NEW) .]

**2. Protection of public health and safety.** Any low-level radioactive waste disposal facility developed in the State shall employ the safest available technology. In order to cope with the humid climate, high water table, cold winters and other geological characteristics of the State, improved engineered disposal methods in addition to geological barriers shall be used rather than conventional shallow land burial.

[ 1985, c. 705, §5 (NEW) .]

**3. Financing.** Any low-level radioactive waste disposal facility developed in the State shall be financed by funds collected prior to their expenditure from the generators of that waste within the State. This includes funds for planning, licensing, siting, construction, operation, closure, long-term monitoring and any other necessary functions.

[ 1985, c. 705, §5 (NEW) .]

**4. Licensing.** A low-level radioactive waste disposal facility developed in the State must be licensed by the United States Nuclear Regulatory Commission. The facility must be approved by the Legislature in accordance with section 1479 and approved by the voters in accordance with section 1493.

[ 1995, c. 642, §20 (AMD) .]

**5. Facility near existing nuclear power plant.**

[ 1999, c. 174, §5 (RP) .]

## SECTION HISTORY

1985, c. 705, §5 (NEW). 1991, c. 174, (AMD). 1995, c. 642, §20 (AMD).  
 1999, c. 174, §5 (AMD). 1999, c. 739, §4 (AMD).

### **§1483. REGULATION OF DISPOSAL OR STORAGE OF LOW-LEVEL RADIOACTIVE WASTE CLASSIFIED BY THE NUCLEAR REGULATORY COMMISSION AS BELOW REGULATORY CONCERN**

To the extent permitted under federal law, no low-level radioactive waste generated through the production of nuclear power that the United States Nuclear Regulatory Commission classified as low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory concern after that date, may be stored or disposed of in this State at other than a low-level radioactive waste storage or disposal facility licensed by the Nuclear Regulatory Commission, except as permitted under federal law as of January 1, 1989. Unless required under federal law, the State does not assume responsibility or ownership over these wastes by retaining jurisdiction over their storage and disposal. [1989, c. 461, §2 (NEW).]

## SECTION HISTORY

1989, c. 461, §2 (NEW).

## **Subchapter 4: WASTE DISPOSAL**

### **§1491. TITLE**

This subchapter shall be known and may be cited as "An Act to Require Voter Approval of the Disposal of Low-level Radioactive Waste." [1985, c. 1, (NEW).]

## SECTION HISTORY

IB 1985, c. 1, (NEW).

### **§1492. PURPOSE**

The purpose of this Act is to require approval by the voters of Maine as a precondition for the construction or operation within the State of Maine of any low-level radioactive waste disposal or storage facility and to require approval by the voters of Maine as a precondition for the participation by the State of Maine in any compact or agreement with any other state or states or the Federal Government concerning low-level radioactive waste disposal or storage. [1985, c. 1, (NEW).]

## SECTION HISTORY

IB 1985, c. 1, (NEW).

### **§1493. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL REFERENDUM**

A low-level radioactive waste disposal or storage facility may not be constructed or operated in the State unless the construction or operation is approved by a majority of the voters voting on the construction or operation in a statewide election. The election must be held in the manner prescribed by law for holding a statewide election and in accordance with the procedures set forth in Title 35-A, section 4302. The voters must be asked to vote on the acceptance or rejection of construction or operation by voting on the following question:

"Do you approve (insert construction or operation) of a low-level radioactive waste (insert disposal or storage) facility as proposed for (insert location)?"



[1995, c. 642, §21 (AMD).]

This question must be submitted to the legal voters of the State at the next following statewide election after a decision by the United States Nuclear Regulatory Commission to approve a low-level radioactive waste facility. The construction or operation of the facility may not commence prior to the election. [1995, c. 642, §21 (AMD).]

#### SECTION HISTORY

IB 1985, c. 1, (NEW). 1987, c. 769, §B9 (AMD). 1995, c. 642, §21 (AMD).

### §1494. LOW-LEVEL RADIOACTIVE WASTE COMPACT REFERENDUM

The State of Maine may not enter into any compact or agreement with any other state or states or with the Federal Government concerning the disposal or storage of low-level radioactive waste either within or without the State unless the compact or agreement has been approved by a majority of the voters voting on the compact or agreement in a statewide election. The election must be held in the manner prescribed by law for holding a statewide election and in accordance with the procedures under Title 35-A, section 4302. The voters shall vote on the acceptance or rejection of the compact or agreement by voting on the following question:

"Do you approve of the (insert compact or agreement) to be made with (insert name of state or states or "the Federal Government") for the (insert disposal or storage) of the State's low-level radioactive waste at a proposed facility in (insert name of state or other location)?"

[1993, c. 400, §1 (AMD).]

This question must be submitted to the legal voters of the State at the next following statewide election after any such compact or agreement is recommended by the Governor pursuant to section 1474 or any other provision of law. [1993, c. 400, §1 (AMD).]

#### SECTION HISTORY

IB 1985, c. 1, (NEW). 1987, c. 769, §B10 (AMD). 1993, c. 400, §1 (AMD).

### §1495. LIMITING PROVISIONS

The provisions of this Act shall not apply: [1985, c. 1, (NEW).]

**1. Power plant waste facilities having all licenses, permits, approvals, etc., for construction and operation.** To any nuclear power plant or facility for the disposal or storage of low-level radioactive wastes if, prior to May 1, 1984, such power plant or waste facility has obtained all federal, state and local licenses, permits, certificates, variances and other approvals necessary for the construction and operation thereof; or

[ 1985, c. 1, (NEW) .]

**2. Facilities used to store or dispose of wastes generated through medical or bioresearch applications.** To any facility solely for the disposal or storage of low-level radioactive wastes generated within the State of Maine through medical or bioresearch applications.

[ 1985, c. 1, (NEW) .]

#### SECTION HISTORY

IB 1985, c. 1, (NEW).

## §1496. NULLIFYING PREVIOUS COMPACTS OR AGREEMENTS

Any compact, agreement or contract into which the State of Maine has entered with any individual, corporation or partnership or with any other state or states or the Federal Government between May 1, 1984, and the effective date of this Act concerning the disposal or storage of low-level radioactive wastes shall be null and void. [1985, c. 1, (NEW).]

### SECTION HISTORY

IB 1985, c. 1, (NEW).

## §1497. APPLICABILITY OF REGULATIONS

Nothing in this Act may be construed to exempt any proposed nuclear power plant, any facility for the disposal or storage of low-level radioactive waste or any compact or agreement or contract subject to the provisions of this Act from meeting any licensing, permit, certification, variance or other approval requirement of the State of Maine or political subdivisions thereof. [1985, c. 1, (NEW).]

### SECTION HISTORY

IB 1985, c. 1, (NEW).

---

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 126th Maine Legislature and is current through August 1, 2014. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.
--